IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

§

§

§ §

§ §

§ § §

§

SIPCO LLC, and IP CO., LLC (d/b/a INTUS IQ)

Plaintiffs,

v.

EMERSON ELECTRIC CO., EMERSON PROCESS MANAGMENT LLLP, FISHER-ROSEMOUNT SYSTEMS, INC., ROSEMOUNT INC., BP PLC, BP AMERICA, INC., and BP AMERICA PRODUCTION COMPANY

Defendants.

Civil Action No. 6:15-CV-907-JRG-KNM

EMERGENCY OPPOSED MOTION TO STAY PENDING TRANSFER

Defendants respectfully request a stay pending transfer of this action.

The Court granted Defendants' Motion to Transfer Venue to the United States District Court for the Northern District of Georgia on July 1, 2016 [Dkt. No. 98]. Pursuant to Local Rule CV-83(b), the Court may not transmit the case file for at least 21 days after the order granting transfer is entered. Certain critical filing dates are currently pending in this action, and will be due prior to transfer. Plaintiffs oppose this motion.

Pursuant to the Amended Docket Control Order in this action [Dkt. 73], the parties are to file the Joint Claim Construction and Prehearing Statement required by P.R. 4-3 on July 7, 2016. On that same day, the parties are to also file Amended Pleadings, including inequitable conduct allegations, and Defendant BP p.l.c. must file its Reply in support of its Motion to Dismiss. Each of these filings has an extremely short fuse and will require the expenditure of significant effort and resources. It does not make sense to make these additional filings in this action now. Given



Case 1:16-cv-02690-AT Document 99 Filed 07/05/16 Page 2 of 3

the existing transfer Order, it is unlikely this Court has any interest in receiving these additional

filings and it is not clear that the Georgia transferee court will need or benefit from those filings.

For example, the Georgia District Court does not have the numerical limitation imposed by this

Court's P.R. 4-3. Moreover, the Georgia District Court does not include a deadline by which

inequitable conduct must be pled. Preparing and filing these materials would impose a

significant, potentially unnecessary burden on the parties.

As grounds for opposing the proposed requested stay, the SIPCO/IPCO plaintiffs advised

that they did not want to delay the claim construction process in this case because the claim

construction briefing is complete in the Georgia action. But it is not clear how the Georgia

District Court would proceed given the fact that a total of 210 patent claims of 13 patents are at

issue in the two proceedings. That court might keep the two actions separate or it might

consolidate the two. If the two actions are consolidated, it is possible that the Georgia District

Court would render the case more manageable by requiring SIPCO/IPCO to identify a

reasonable number of claims to assert. Given these uncertainties, it is not clear how filing the

required P.R. 4-3 here would advance resolution of any aspect of the Georgia action.

Accordingly, Defendants move this Court for an Order vacating the pending due dates pending

transfer of this action.

Dated: July 5, 2016

Respectfully submitted,

/s/ James Berguist

Donald L. Jackson

James D. Berquist

J. Scott Davidson

DAVIDSON BERQUIST JACKSON &

GOWDEY, LLP

8300 Greensboro Dr., Suite 500

McLean, VA 22102



Melissa R. Smith State Bar No. 24001351 GILLAM & SMITH, LLP 303 South Washington Avenue Marshall, Texas 75670

Telephone: (903) 934-8450 Facsimile: (903) 934-9257

Email: melissa@gillamsmithlaw.com

Attorneys for Defendants Emerson Electric Co., Fisher-Rosemount Systems, Inc., and Rosemount Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 5, 2016.

/s/ Melissa R. Smith

CERTIFICATE OF CONFERENCE

Pursuant to L.R. CV-7(i), the undersigned hereby certifies that counsel for Defendants met and conferred with counsel for Plaintiffs on July 1 and July 5, 2016 and have complied with L.R. CV-7(h). Plaintiffs oppose the motion, conclusively leaving the parties at an impasse, and an open issue for the Court to resolve.

/s/ Bobby Lamb

